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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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In re R. L. et al., Persons Coming Under the Juvenile  
Court Law.

C080873

SACRAMENTO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

(Super. Ct. Nos. JD232667,  
JD232666, JD232668)

Plaintiff and Respondent,

v.

I. B. et al.,

Defendants and Appellants.

I. B., mother, and R. L., father, of the minors appeal from orders of the juvenile court terminating their parental rights. (Welf. & Inst. Code,<sup>1</sup> §§ 366.26, 395.) Mother contends the juvenile court erred in failing to find she had established the beneficial

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<sup>1</sup> Further undesignated statutory references are to the Welfare and Institutions Code.

parental relationship exception to the preference for adoption. Father argues that, if mother's appeal is successful, the order terminating his parental rights should also be reversed. (Cal. Rules of Court, rule 5.725(a) & (g).) We affirm.

## FACTS

In September 2012, the Sacramento County Department of Health and Human Services (Department) filed a petition alleging newborn R. L., one-year-old I. L. and two-year-old C. L. were at risk of physical harm due to ongoing domestic violence in the home, substance abuse and filthy living conditions. The detention report stated that father had been arrested for possession of methamphetamine and mother and R. L. had tested positive for marijuana when the child was born. The minors did not react when removed from the home.

The report for the jurisdiction/disposition hearing recommended offering services to both parents. The report noted that I. L. displayed self-injuring behaviors, C. L. was physically aggressive, and both minors lacked boundaries. In visits, the minors were afraid of father and reacted by injuring each other. However they did play and interact with mother. The court sustained the petitions and ordered services for the parents.

The six-month review report recommended termination of services due to lack of parental participation. The minors were generally healthy and all were developmentally normal with no obvious impairments. C. L. was assessed as obese but was losing weight in foster care. The foster parent reported that the minors' behaviors had improved significantly since placement. Following a contested hearing, the juvenile court found the parents had made progress and ordered further services.

The 12-month review report recommended return of the minors with family maintenance services because the parents had made excellent progress and the home was "clean enough." The minors had continued to develop normally and respond to structure and firmness. Some regression in behavior was noted following weekend visits, but the foster mother was working with the parents to maintain consistent schedules. The minors

were excited to visit and mother's visits were positive. The juvenile court adopted the recommendation and returned the minors home under supervision in October 2013.

The in-home review report in March 2014 recommended continuing family maintenance services. Adequate housing continued to be a problem but both parents had completed the remaining components of the service plan. The minors seemed happy to be home with the parents. An addendum filed a week later indicated that the original issues of father's blaming and yelling at mother were resurfacing, placing father's sobriety at risk. The social worker recommended additional support services. The court continued family maintenance services.

A month later, the Department filed a section 387 supplemental petition alleging the previous disposition was not effective in protecting the minors because the home did not meet basic health standards, father admitted recent methamphetamine use with mother and father was displaying extreme paranoia and making delusional statements. The detention report provided additional details describing circumstances that were similar to those found when the initial petition was filed more than 18 months earlier. The Department offered mother an action plan which included voluntary removal until the parents could begin the services previously recommended. C. L. told the social worker the parents yelled at each other all the time and it was scary. Father was arrested for corporal injury on a spouse. The court placed the minors with mother and set an interim review.

By October 2014, mother and the minors were living in a motel and father was out of custody on probation. Mother and the minors had been asked to leave the sober home where mother resided two weeks after the minors were returned. Mother and the minors were homeless for a period of time with the minors sleeping at the adult sibling's home. A welfare check disclosed that both parents were staying at the motel with the children. The minors were beginning to show developmental delays and renewed behavioral issues.

The Department filed a second section 387 petition in November 2014, alleging mother's deteriorating housing conditions and father's presence in the motel in violation of a domestic violence restraining order. The court ordered the minors detained. C. L., now four years old, said father had been living with them before the social worker found him there but that she was not supposed to tell. C. L. again reported that the parents fought, describing an incident where father broke a picture and mother and R. L. were crying. C. L. said the incident made her sad. The minors were variously assessed as developmentally delayed, lacking boundaries and having some emotional problems. The court sustained the petition, denied further services and set a section 366.26 hearing.

The June 2015 assessment for the section 366.26 hearing stated mother had weekly supervised visits with the minors who were generally happy and excited to see her. From late February to mid-June 2015, mother missed more visits than she attended, however her parenting skills in visits, including setting boundaries and managing the minors' behaviors, improved over time. C. L. in particular missed her mother and reacted poorly to missed visits. On returning to foster care, the minors had various issues, some of which were resolving. R. L. had speech delays, food issues and tantrums. An evaluation by Alta Regional Center concluded he was 24 percent delayed but the public health nurse reported R. L. had significantly improved between the time of her initial assessment and the Alta Regional evaluation. I. L. was developmentally on target but did have some speech issues and difficulty with time sense. C. L. continued to have problems with food and speech but was less aggressive. The current caretakers were working to address the various delays and get the three minors in school. Overall, R. L.'s behavior was within normal limits; however, I. L. and C. L. needed significant structure and therapy to normalize their behaviors. Both I. L. and C. L. spoke of staying with the caretakers although C. L. also said she missed mother and wanted to go home.

An addendum filed in August 2015 stated that R. L.'s behaviors had improved in the last two months. I. L. and C. L. were both in therapy. C. L. was showing improvement in behavior, I. L. was not. Both had made major improvements in areas where they were delayed and seemed to have behavioral issues rather than learning or intellectual disabilities. Mother continued to visit weekly.

The contested section 366.26 hearing commenced in November 2015. Mother testified she felt the minors had a strong bond with her and described the positive reactions of the minors to visits, noting that C. L. and I. L. did not want visits to end. Mother believed the minors would benefit from continued contact with her. The social worker testified that she observed one visit and there appeared to be a positive relationship between mother and the minors. The juvenile court found the minors were likely to be adopted, termination of parental rights would not be detrimental to the minors and no exception to the preference for adoption applied. The court stated that, while there had been regular and consistent visitation of good quality, the parent-child bond did not outweigh the benefit that each child would derive from legal permanence through adoption. The court terminated parental rights and identified adoption as the permanent plan for the minors.

## DISCUSSION

### I

#### *The Beneficial Parent-child Relationship*

Mother contends she established a beneficial parent-child relationship existed and her parental rights should not have been terminated.

At the selection and implementation hearing held pursuant to section 366.26, a juvenile court must choose one of the several “ ‘possible alternative permanent plans for a minor child. . . . *The permanent plan preferred by the Legislature is adoption.*

[Citation.]’ [Citation.] If the court finds the child is adoptable, it *must* terminate parental rights absent circumstances under which it would be detrimental to the child.” (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368.) There are only limited circumstances which permit the court to find a “compelling reason for determining that termination [of parental rights] would be detrimental to the child.” (§ 366.26, subd. (c)(1)(B).) The party claiming the exception has the burden of establishing the existence of any circumstances which constitute an exception to termination of parental rights. (*In re Melvin A.* (2000) 82 Cal.App.4th 1243, 1252; Cal. Rules of Court, rule 5.725(d)(4); Evid. Code, § 500.)

Termination of parental rights may be detrimental to the minor when: “The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) However, the benefit to the child must promote “the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575; *In re C.F.* (2011) 193 Cal.App.4th 549, 555.)

The juvenile court found mother established that she had maintained regular visitation and contact with the minors. The juvenile court also found mother had shown there was a bond between mother and the minors. However, the juvenile court found mother did not establish that the minors would benefit from continuing the relationship.

The minors were very young and needed consistency and structure to develop and thrive. They spent two years in foster care. The youngest child spent two-thirds of his life away from mother; the middle child, one-half of her life; and the oldest child, one-third of her life. The foster care placements provided that structure as did the supervised visits when mother set limits and made efforts to manage the minors' behaviors. However when the minors were in mother's custody, their behavior regressed and their normal development suffered despite efforts by the foster parents to assist mother in maintaining structure. The trial court could reasonably find that, given the developmental delays and increased behavioral issues after being in mother's care, the parent-child bond which existed between mother and the minors was not of a nature or quality to outweigh the benefit to the minors of a secure and stable permanent home. Indeed, the assessment for the section 366.26 hearing noted that the minors were establishing a relationship with the caretakers and spoke about staying in their home. While C. L. did miss her mother and wanted to go home, there was no evidence that there would be more than short-term detriment to her or the other minors if parental rights were terminated. Mother failed to establish the beneficial parent-child relationship and therefore did not show that there was a compelling reason for determining that termination of parental rights would be detrimental to the minors. The juvenile court did not err in finding the exception had not been proven.

## II

### *Father's Contention*

Father argues only that, if mother was successful in achieving reversal of the juvenile court's orders, he should have the same result. (Cal. Rules of Court, rule 5.725(a) & (g).) Mother was not successful and we affirm the juvenile court's orders terminating father's parental rights.

DISPOSITION

The orders of the juvenile court are affirmed.

/s/  
Robie, Acting P. J.

We concur:

/s/  
Mauro, J.

/s/  
Duarte, J.